

REMARKS

Claims 1-7, 9-29, 71, 75-95, 97, 99-102, 104-106, and 108-120 are now pending in the application. By this paper, Claim 76 has been amended and Claim 8 has been cancelled without prejudice or disclaimer of the subject matter contained therein. The basis for the foregoing amendments can be found throughout the specification, claims, and drawings originally filed. No new matter has been added. The preceding amendments and the following remarks are believed to be fully responsive to the outstanding Office Action and are believed to place the application in condition for allowance. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

SPECIFICATION

Applicants have amended the specification to incorporate the subject matter of the Certificate of Correction dated April 6, 2004.

CLAIM OBJECTIONS

Applicants have cancelled Claim 8 in accordance with the Certificate of Correction dated April 6, 2004.

REJECTION UNDER 35 U.S.C. § 251

Claim 76 stands rejected under 35 U.S.C. § 251 as being an improper recapture of broadened claim subject matter surrendered in the application for patent upon which

the present reissue is based. Specifically, recitation of the term "suction pressure zone" was removed from Claim 76. This rejection is respectfully traversed.

Applicants have amended Claim 76 to recite "suction pressure zone" and therefore submit that Claim 76 is in condition for allowance. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

REISSUE OATH / DECLARATION

The Examiner asserts that the Declaration filed with the reissue application dated March 22, 2004 is not in compliance with 37 CFR § 1.67(a). Furthermore, the Examiner asserts that the Declaration filed March 22, 2004 is also not in compliance with 37 CFR § 1.175(a)(1).

Applicants submit herewith a Supplemental Reissue Declaration (PTO/SB/51) signed by the inventors. The Supplemental Reissue Declaration recites that the subject reissue application is a broadening reissue application and identifies an error upon which the reissue is based. Namely, the Supplemental Reissue Declaration identifies failure to recite an oil sump disposed between an outer shell and a mounting frame in combination with a first capacity modulation system that applies a force to a second scroll member to operate a first compressor between substantially full capacity and substantially zero capacity. Furthermore, the Supplemental Reissue Declaration also identifies independent Claims 1 and 31 of U.S. Patent No. 6,672,846 as failing to recite the above combination.

In light of the foregoing, Applicants respectfully submit that Claims 1-29, 71, 75-95, 97, 99-102, 104-106, and 108-120 are in condition for allowance. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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